

Unofficial Draft Copy

As of: August 30, 2004 (3:05pm)

LC5001

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act providing that for purposes of a medical malpractice claim liability may not be imposed on a health care provider for an act or omission by a person or entity alleged to have been an ostensible agent of the health care provider at the time that the act or omission occurred; amending section 28-10-103, MCA; and providing an applicability date."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 28-10-103, MCA, is amended to read:

"28-10-103. Actual versus ostensible agency -- limitation.

(1) An agency is either actual or ostensible. An agency is actual when the agent is really employed by the principal. An agency is ostensible when the principal intentionally or by want of ordinary care causes a third person to believe another to be his the principal's agent who when that person is not really employed by him the principal.

(2) For purposes of a malpractice claim, as defined in 27-6-103, liability may not be imposed on a health care provider, as defined in 27-6-103, for an act or omission by a person or entity alleged to have been an ostensible agent of the health care provider at the time that the act or omission occurred."

{ Internal References to 28-10-103: x None. }

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